

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

**DEFENDANT'S EMERGENCY MOTION RE:
TEMPORARY RELEASE FROM DETENTION**

The defendant, Alkis Nakos, respectfully moves this Honorable Court to modify his detention order so that he may visit his nine month old daughter in the pediatric intensive care unit at the Dartmouth-Hitchcock Hospital in Lebanon, New Hampshire. His daughter was admitted yesterday and diagnosed with leukemia. According to the information provided to defendant's counsel from the hospital, while many young children fully recover from this condition, she is in a life threatening situation. The defendant's counsel has spoken with hospital security and has been informed that such a visit is acceptable to the hospital as long as the defendant himself is not ill.

The rights of federal pretrial detainees, "those persons who have been charged with a crime but who have not yet been tried on the charge," are controlled by the Fifth Amendment's due process clause which prohibits punishment "prior to an adjudication of guilt in accordance with due process of law." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). If the defendant is prohibited from seeing his daughter and she passes, he will suffer irreparable harm- punishment from which there is no recovery. He can visit under whatever security measures the Marshals Service deems appropriate. Temporary release for a "compelling reason" is permitted by the detention statute. See 18 U.S.C. §3142(i).

The government has informed defense counsel that it objects to this motion since the Marshal's Service does not want to agree to this request for security and policy reasons. The Marshal's Service has directly informed defense counsel that that is its position.

Respectfully submitted,

By his attorneys,

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CERTIFICATE OF SERVICE

I, Robert Sheketoff, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants.

/s/ Robert Sheketoff
Robert Sheketoff